

Steven R. Leong, et al.
Application No.: 09/725,324
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REMARKS

I. STATUS OF THE CLAIMS.

Claims 184-190, 201, 204 and 207-216 were examined. Claims 184-190, 201, 204-207, and 210-212 are presently pending. Claims 208-209 and 213-216 are canceled herein without prejudice to subsequent renewal, including in a continuation or divisional application, which cancellations are not made for reasons relating to patentability. Claims 184, 186-190, 201, 204, 210, and 211 have been amended as discussed in greater detail below. All of the amendments herein are fully supported by the specification and none of the amendments constitutes new matter.

Applicants thank Examiners Carolyn L. Smith and Marjorie Moran for their time and courtesy during the telephone interview held on September 22, 2005, during which the pending claims and Office Action dated April 28, 2005 were discussed, including the rejection under 35 U.S.C. § 112, first paragraph regarding alleged lack of scope of enablement of claims 208, 209, and 213-216 and the rejection under 35 USC § 112, second paragraph regarding the alleged method steps in claims 208 and 209. Applicants thank the Examiners for their clarification and helpful suggestions.

II. DOUBLING PATENTING.

The Examiner states that "should claims 184, 188, 201, 204, 208-211, and 213-216 be found allowable, claims 184, 188, 201, 204, 208-211, and 213-216 will be objected to under 37 CFR § 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim." Office Action, page 2. The Examiner takes the position that claim 208 "appears to be reciting a property of the isolated or recombinant polypeptide of instant claim 184" and that "properties are inherent to a product and do not further limit the structure of the product." *Id.* Applying similar reasoning, the Examiner also concludes that claim 209 is a duplicate of claim 188, claim 213 is a duplicate of claim 201, claim 214 is a duplicate of claim 204, and claim 215 is a duplicate of claim 210.

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